

Let me deal first with the question of constitutionality. It seems to me that that was amply answered by the opinion which was given by our Parliamentary Counsel, Mr. E. R. Hopkins, who is considered learned and distinguished in these matters. He said that in his view the bill was constitutional on two grounds. I shall not discuss those at the moment, but you will find his opinion as an appendix to Senate *Hansard* of February 2, 1961. It would appear we are always involved with the British North America Act in this house, but whether one is a lawyer or a layman it is interesting to read it for its background and educational value. If after reading that opinion there is still some doubt in your minds, you might look at the opinion of Mr. F. P. Varcoe, Q.C., given in 1935, when he was Deputy Minister of Justice, in connection with the Small Loans Act, which in principle is the same as this bill except that it relates to cash loans.

I think you will have no difficulty in reaching the conclusion that this bill is constitutional but, if necessary, I shall once more in the course of my discussion try to clear that matter up. I feel that opposition on the ground of constitutionality has been or will be abandoned. In any event, it is untenable, as I shall once again demonstrate.

Hon. Mr. Higgins: May I interrupt the honourable senator to ask a question? Is he going to deal with the Unconscionable Transactions Relief Act of Ontario which I believe was recently declared *ultra vires* by the court of appeal of Ontario. I have not had an opportunity of reading the case, but I believe the court ruled that its provisions came under federal rather than provincial jurisdiction.

Hon. Mr. Croll: Exactly.

Hon. Mr. Higgins: Has the honourable gentleman considered that case?

Hon. Mr. Croll: Yes, but I had not intended bringing it up at this point. It was my intention to wait until the opposition had had an opportunity to speak, and to mention that case in my rebuttal. The honourable senator is anticipating me.

The previous debates on the principles of this bill have been excellent and, as a result of the contributions made by some honourable senators, this bill has been refined and polished from time to time. It is now as nearly perfect as I can make it. It is almost the same as the bill I introduced during the last session, except that a brief preamble has been added.

Preambles, by the way, are somewhat out of fashion, so a word of explanation here

will, perhaps, be in order. Let me read the preamble and then explain why I put it in:

Whereas Canadian consumers generally are not being fully or accurately informed, with reference to any recognizable common standard, of the cost of the credit extended to them in respect of retail purchases, and it is highly desirable in the public interest to ensure that in future they will be provided with such essential information: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

There is a preamble to the Small Loans Act, and on one occasion before the Standing Committee on Banking and Commerce Mr. Varcoe suggested that the preamble had an important bearing on the constitutionality of the measure. I did not subscribe to that theory, and I do not now. I have not added this preamble with any thought of strengthening the constitutionality of the present bill. In this case it does not, in my opinion, require strengthening, as I shall demonstrate. It is my thought, rather, to focus attention on the purpose of the bill; to focus attention on—to use a lawyer's term—the mischief which the bill seeks to remove.

Explanatory notes, it is true, serve a purpose. However, those notes do not appear in the statute books as does the preamble. It is an integral part of the legislation which is permanently recorded.

The other changes in wording are minor and are, I think, of rather inconsequential character, designed only to clarify the measure.

This bill is designed to protect the consumer from the harsh consequences of easy retail credit, and to require those financing such credit to disclose all their charges whether they are called interest, finance charges, carrying charges or otherwise.

Honourable senators, what does this bill mean? The Industrial Acceptance Corporation issues a publication called Merit News—you have all received copies of it. I am referring to the issue of April-May, 1962. Though the I.A.C. is no ardent lover of this bill, I nevertheless agree with these words:

From time to time well-meaning demands are voiced for legislation requiring all consumer finance charges to be expressed in terms of simple annual interest. The purpose of this legislation is stated to be three-fold:

1. That simple interest would provide a common denominator which would allow the consumer to compare the cost of credit from various sources—and thus be able to shop for it more efficiently.